

UNITED STATES DISTRICT COURT

District of IDAHO

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 1:04CR-136-001-S-BLW

CARLOS VELASQUEZ-ORTEGA

Phillip Gordon
Defendant's Attorney

UNITED STATES COURTS
DISTRICT OF IDAHO

THE DEFENDANT:

X pleaded guilty to count(s) one and two of the information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

OCT 22 2004

LOGGED M. REC'D
FILED

Title & Section	Nature of Offense	Date Concluded	Count Number(s)
18 USC § 922(g)(5)	Unlawful Possession of a Firearm	06/08/2004	One
18 USC § 924(d) and 28 USC § 2461(c)	Forfeiture		Two

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. None

Defendant's Date of 1972

Defendant's USM No.: 12172-023

Defendant's Residence Address:

Defendant's Mailing Address:

October 21, 2004

Date of Imposition of Judgment

B. Lynn Winnill
Signature of Judicial Officer

B. Lynn Winnill, Chief United States District Judge
Name and Title of Judicial Officer

10/22/2004
Date

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DEFENDANT: Carlos Velasquez-Ortega
CASE NUMBER: 1:04CR136-001-S-BLW

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 7 months.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
This court requests the defendant, Carlos Velasquez-Ortega, be given credit for time served and further requests he be imprisoned at an institution close to the Mexico border.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ ☐ a.m. ☐ p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

DEFENDANT: Carlos Velasquez-Ortega
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SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three years.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

X The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Carlos Velasquez-Ortega
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ADDITIONAL SUPERVISED RELEASE TERMS

The defendant is prohibited from possessing a firearm or other dangerous weapon.

The defendant shall pay any special assessment that is imposed by this judgment and that remains unpaid at the commencement of the term of supervised release to the Clerk of the US District Court, 550 W. Fort St., MSC 039, Boise, ID 83724, on a monthly payment schedule as directed by the probation officer.

The defendant shall submit to a search of his person, place of residence, or automobile at the direction of the US Probation Officer and submit to seizure of any contraband found therein.

The defendant shall comply with the rules and regulations of the Immigration and Customs Enforcement, and if deported from his country, either voluntarily or involuntarily, shall not reenter the United States without permission from the Secretary of the Department of Homeland Security. Within 72 hours of release from any custody or reentry to the United States during the term of the Court ordered supervision, the defendant shall report in person to the probation office in the district to which the defendant is released.

DEFENDANT: Carlos Velasquez-Ortega
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CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$ waived	\$

☐ If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ _____.

The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- ☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

- ☐ The determination of restitution is deferred until _____ . An Amended Judgment in a Criminal Case will be entered after such determination.
- ☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>*Total Amount of</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
Totals:	\$ _____	\$ _____	

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: Carlos Velasquez-Ortega
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SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ In full immediately; or
- B ☐ \$ _____ immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than _____; or
- D ☐ in installments to commence _____ days after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E ☐ in _____ (*e.g., equal, weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ year(s) to commence _____ days after the date of this judgment.

The defendant will be credited for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

The defendant shall pay any special assessment that is imposed by this judgment and that remains unpaid at the commencement of the term of supervised release to the Clerk of the US District Court, 550 W. Fort St., MSC 039, Boise, ID 83724, on a monthly payment schedule as directed by the probation officer.

- ☐ The defendant shall pay the cost of prosecution.
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
As per the attached preliminary order for forfeiture entered October 21, 2004.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are to be made as directed by the court, the probation officer, or the United States attorney.

U.S. COURTS

OCT 21 2004

REC'D FILED
CAMERON S. BURKE
CLERK IDAHO

Lawson

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS VELASQUEZ-ORTEGA,

Defendant.

Ct. No. 04-136-S-BLW

PRELIMINARY
ORDER FOR FORFEITURE

This matter having come before the Court upon Plaintiff's Motion for Preliminary Order of Forfeiture, and based upon the record and filings herein, the Court makes the following findings and order:

A Plea Agreement was entered into between Carlos Velasquez-Ortega and the United States of America on July 26, 2004, by which the defendant pled guilty to violations of 18 U.S.C. §§ 922(g)(5). Said Plea provides for forfeiture of any and all interests the defendant possessed in the following property pursuant to 18 U.S.C. § 924(d) and made applicable pursuant to 28 U.S.C. § 2461(c):

Firearms and Ammunition to include:

One Norinco, Model 213, 9 mm pistol, bearing serial number 619626 and eight 9mm bullets

Based on the file herein, including the Plea Agreement, and the factual basis set out therein, for the reasons stated at bar, and pursuant to the Plaintiff's Motion for Preliminary Order of Forfeiture:

THE COURT FINDS that the above-described property was property which was involved in a violation of 18 U.S.C. § 922(g)(5).

PRELIMINARY ORDER OF FORFEITURE - 1

1 Upon entry of this Order, the United States Attorney General (or a designee); is authorized to
2 seize the above-listed property, and to conduct any discovery proper in identifying, locating or disposing
3 of the property subject to forfeiture, in accordance with Fed R. Crim P. 32.2(b)(3).

4 Upon entry of this Order, the United States Attorney General (or a designee); is authorized to
5 commence any applicable proceeding to comply with statutes governing third party rights, including
6 giving notice of this Order.

7 The United States shall publish a one-time notice of the order and its intent to dispose of the
8 property in such a manner as the United States Attorney General (or a designee) may direct. The United
9 States may also, to the extent practicable, provide written notice to any person known to have an alleged
10 interest in the Subject Property.

11 Any person, other than the above-named defendant, asserting a legal interest in the Subject
12 Property may, within thirty days of the publication of notice or receipt of notice, whichever is earlier,
13 petition the court for a hearing without a jury to adjudicate the validity of his alleged interest in the
14 Subject Property, and for an amendment of the order of forfeiture, pursuant to 21 U.S.C. § 853(n)(6).

15 Any petition filed by a third party asserting an interest in the Subject Property shall be signed
16 by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right,
17 title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the
18 right, title or interest in the Subject Property, any additional facts supporting the petitioner's claim and
19 the relief sought.

20 After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a
21 hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil
22 Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

23 The United States shall have clear title to the Subject Property following the Court's disposition
24 of all third-party interests, or, if none, following the expiration of the period provided in pursuant to 21
25 U.S.C. § 853(n)(2), for the filing of third party petitions.

26 This Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant
27 to Fed. R. Crim. P. 32.2(e).

1 The Clerk of the Court shall forward a certified copy of this Order to Assistant U.S. Attorney
2 Anthony G. Hall, U.S. Attorney's Office, MK Plaza, Plaza IV, 800 Park Blvd., Suite 600, Boise, ID
3 83712.

4 DATED this 21st day of October, 2004.

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7 UNITED STATES DISTRICT JUDGE
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